

**REMARKS**

**I. Status of Claims**

Claims 1-60 are currently pending. Claims 1-5, 8-53, and 56-60 have been rejected as allegedly obvious, and claims 6, 7, 54, and 55 have been objected to as being dependent upon a rejected base claim. By this amendment, claims 1, 6, 7, 41, 42, 46-48, and 54-56 have been amended, and claims 4, 5, 52, and 53 have been canceled. Support for the amendment to claims 1, 41, 42, and 46-48 can be found in the originally-filed specification, for example on page 7, paragraph [035] to page 11, paragraph [043], and original claims 5 and 53. Claims 6, 7, and 54-56 have been amended to correct improper dependencies created by the cancellation of claims 5 and 53. No new matter has been added.

While Applicants thank the Office for indicating the allowability of claims 6, 7, 54, and 55, Applicants respectfully traverse the rejection of claims 1-5, 8-53, and 56-60 and solicit the allowance of all pending claims as amended herein.

**II. Rejections under 35 U.S.C. § 103**

**A. Matsunaga in view of Doehling**

Claims 1-5, 8-23, 29-53, and 57-60 have been rejected under 35 U.S.C. § 103 as allegedly obvious over U.S. Patent Application Publication No. 2001/0054206 A1 to Matsunaga et al. ("Matsunaga") in view of U.S. Patent No. 5,961,667 to Doehling et al. ("Doehling").

According to the Office, Matsunaga "teaches a hair dyeing composition comprising a fluorescent of azomethine compound of formula (2) . . ." having certain of the claimed properties, as well as a process for dyeing hair and a multi-compartment

device for dyeing hair. Office Action at 2-3. The Office admits, however, that Matsunaga fails to teach “a composition comprising at least one compound comprising an acid functional group selected from the claimed species.” *Id.* at 3. Nonetheless, the Office attempts to rectify that deficiency with Doehling as allegedly teaching “a composition comprising acids such as hydrochloric acid, sulfuric acid, monocarboxylic acids such as acetic acid, amino acids such as lysine and arginine, [and] polycarboxylic acids such as citric acid . . . .” *Id.* Thus, the Office concludes that it would have been obvious to combine Matsunaga with Doehling to arrive at the presently claimed invention, as Matsunaga “suggests the use of acids such as ascorbic acid and phosphoric acid in the hair dyeing composition.” *Id.* Applicants respectfully traverse.

To establish a *prima facie* case of obviousness the Office must demonstrate, among other things, that the cited references teach or suggest each and every element of the claims. M.P.E.P. § 2143. All of the currently pending independent claims have been amended to recite that the at least one fluorescent dye is chosen from formulae (F1) and (F3). Neither Matsunaga nor Doehling teach or suggest at least one fluorescent dye chosen from formulae (F1) and (F3). Accordingly, no *prima facie* case of obviousness can be established, and Applicants respectfully request withdrawal of the rejection.

**B. Matsunaga in view of Doehling and further in view of Rondeau**

Claims 24-27 and 56 have been rejected under 35 U.S.C. § 103 as allegedly obvious over Matsunaga in view of Doehling and further in view of U.S. Patent No. 6,436,153 to Rondeau (“Rondeau”). The Office readily admits that Matsunaga and Doehling “do not teach or disclose the direct dyes as claimed and also do[ ] not teach

the fluorescent compound of the claimed formula (F4) in which X<sup>-</sup> is an anion chosen from the claimed radicals.” Office Action at 4. Nonetheless, the Office asserts Rondeau as teaching “cationic azo dyes as claimed,” as well as “a fluorescent dye having a formula similar to the claimed formula (F4) . . . .” Office Action at 5.

Rondeau, however, fails to cure the deficiencies of Matsunaga and Doehling, discussed above. Accordingly, no *prima facie* case of obviousness has been established with respect to claims 24-27 and 56, and Applicants respectfully request reconsideration of the rejection.

**C. Matsunaga in view of Doehling and further in view of Giuseppe**

Claim 28 has been rejected under 35 U.S.C. § 103 as allegedly obvious over Matsunaga in view of Doehling and further in view of U.S. Patent No. 5,744,127 to Giuseppe et al. (“Giuseppe”).

The Office admits that Matsunaga and Doehling “do not teach or disclose dyeing compositions in forms of dyeing shampoos as claimed,” but uses Giuseppe as teaching “a composition formulated as a hair shampoo and hair dyeing as well.” Office Action at 6.

Giuseppe, however, fails to cure the deficiencies of Matsunaga and Doehling, discussed above. Accordingly, no *prima facie* case of obviousness has been established with respect to claim 28, and Applicants respectfully request reconsideration of the rejection.

**III. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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